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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,736	10/29/2003	Eugene Joseph Pancheri	9400	7726

27752 7590 08/10/2005

THE PROCTER & GAMBLE COMPANY
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EXAMINER

LU, JIPING

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/697,736	PANCHERI ET AL.	
	Examiner	Art Unit	
	Jiping Lu	3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 18-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 and 18-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/16/2005</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. Sheet 3 of 3 and Co-Pending U.S. Applications of the information disclosure statement filed 6/16/2005 fails to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. Sheet 3 of 3 (the application number is not correct) and Co-Pending U.S. Applications (no application number) of the information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 112

2. Claims 12-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim s 12-13 recite the limitation "said power source" "the power source" in line 1.

There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1-4, 11, 13-16, 18, 21, 22 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Staub et al (U. S. Pat. 5,980,583).

Staub et al show a removable fabric treatment device and method of its use. The device 10 includes dryer apparatus 12, benefit composition, heater (Col. 7, line 26) for said benefit composition, nozzle 52, door 18, drum 14, container 60 and controls 20, 28 with heat sensors for the operation (col. 5, lines 1-63; col. 7, lines 24-30 and Figs. 1-5). The system shows by the Staub patent is same as the broadly claimed features.

Claim Rejections - 35 USC § 103

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
6. Claims 5-10, 19, 23, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al (U. S. Pat. 5,980,583) in view of Roberts et al (U. S. Pat. 4,242,377).

The fabrics treating system and method of Staub et al as above includes all that is recited in claims 5-10, 19, 23, 25 except for the details of the heated benefit composition treatment. Roberts et al teaches forming and heating a fabric treatment composition by an in-situ reaction (Col. 10, lines 9-21). The reaction results in a highly effective heated composition treatment. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the fabric treating system and method of Staub et al with an in-

situ reaction as taught by Roberts et al in order to improve heating efficiency. With regard to claims 6-10 and 19, the claimed numerical ranges and materials are deemed to be merely an obvious matter of choice in absence of new and unexpected results shown by the applicant. With regard to claim 25, no patentable weight was given for the claimed instruction because there is no functional relationship exists between the instructions and the exothermic composition.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al (U. S. Pat. 5,980,583) in view of Church (U. S. Pat. 4,891,890).

The fabrics treating system and method of Staub et al as above includes all that is recited in claim 12 except for the battery operated power source for fabric treatment device. Church teaches (Col. 3, lines 9-22 and Figs. 1-2) exactly this point same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Staub et al with a battery operated power source of Church in order to provide continuity of operation when power fails. This is a common practice to use battery power in our daily routines.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al (U. S. Pat. 5,980,583) in view of Horton (U. S. Pat. 4,207,683).

The fabrics treating system and method of Staub et al as above includes all that is recited in claim 20 except for heating coil as a heating source for fabric treatment device. Horton teaches the use of heating coil as a heat source for fabric treatment device (Col. 2, lines 49-52). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Staub et al with a heating coil as a heat source as taught by Horton in order to provide efficient heating. This is a common practice in radiant heating.

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9. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Staub et al (U. S. Pat. 5,980,583) in view of Roberts et al (U. S. Pat. 4,242,377) as applied to claim 23 above, and further in view of Furgal et al (U. S. Pat. 4,014,105).

The fabrics treating system and method of Staub et al as modified by Roberts et al. as above includes all that is recited in claim 25 except for the use of instruction. Furgal teaches a similar fabric treatment apparatus with the instructions (Col. 4, lines 37-44). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Staub et al with an use instruction as taught by Furgal in order to provide efficient assembly and operation manual. To provide instruction manual is a common practice in today's appliances. Moreover, any printed matter is generally not given any patentable weight.

Response to Arguments

10. Applicant's arguments filed 4/1/2005 have been fully considered but they are not persuasive to overcome the rejection. First broad claims presented failed to define over the prior art references. For example the broadest claims 1, 11, 21 and 22, merely call for heating the benefit composition in a dryer appliance. The Staub patent clearly shows this broadly claimed feature. The applicant is requested to point out exactly which element is not shown by the Staub patent from the claims. Second the arguments presented regarding 102 rejection is also not germane to the claims at issue. The applicant kept arguing something not in the claims. For example, the arguments regarding door, atomizer unit, support brackets, operational temperature, chemical storage tank of Staub patent, are simply not relevant to the broad claims at issue. No such limitations are found in the broad claims at issue. The applicant must focus on the claims,

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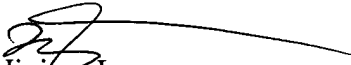
then, point out what is in the claims that the Staub patent does not show in order to overcome the 102 rejection. Presently, the examiner is not convinced that Staub patent fails to show any elements from the broadest claims at issue. Third, the applicant argues that the Staub patent does not show any heater for heating the benefit composition. The examiner disagrees. The benefit composition is heated by heater not shown (see Col. 7, line 25-29). It should be noted that anything the drum, including the benefit composition, is also heated by the heat source of the dryer. Therefore, the 102 rejection against the broad claims is proper. Fourth, regarding claims 5-10, 12, 19, 20, 23, 25 rejected under 103, the applicant argues that there is no explicit teachings found from the prior art references to combine. Therefore, the 103 rejection is improper. The examiner disagrees. The primary prior art patent to Staub shows the same concept as the broadly claimed. Fifth, other secondary references merely show the conventional features that the applicant deems to be his invention, e.g. battery power source, optimal temperatures, numerical ranges, instructions, etc. Therefore, it is the examiner's position that the combined teachings of the prior art references, one skilled in the art would be able to derive the broadly claimed conventional features. Sixth, the applicant also argues that the benefit composition heater of the prior art references is not used in conjunction with the drying device. In particular, the applicant argues that Staub patent does not teach a fabric article treating device used in conjunction with a dryer where in the device is capable of heating a benefit composition. The examiner also disagrees. Staub patent clearly shows the benefit composition is heated prior to entry to the dryer 12 (Col. 7, lines 25-29) and in conjunction with the drying device.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571 272-4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jiping Lu
Primary Examiner
Art Unit 3749

J. L.